

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MOLLY L. DELGADO,

Plaintiff,

vs.

No.

MELISSA DEUELL, et. al.,

Defendants

NOTICE OF REMOVAL

Defendants Melissa Deuell (“Deuell”), Victoria’s Secret Stores, LLC (“Victoria’s Secret”) and L Brands, Inc. (“L Brands”), by and through undersigned counsel, pursuant to 28 U.S.C. §§ 1332(a), 1441(a), 1446 and the applicable Local Rules of the District of New Mexico, hereby remove the above-captioned civil action from the Second Judicial District Court of the State of New Mexico, Bernalillo County, to the United States District Court for the District of New Mexico. In support thereof, Defendants state as follows:

I. PROCEDURAL HISTORY

1. On or about February 24, 2017, Plaintiff Molly L. Delgado filed a Complaint in the Second Judicial District Court of the State of New Mexico, Bernalillo County, against the Defendants Deuell, Victoria’s Secret and L Brands. (See Complaint for Damages as a Result of Personal Injury and Loss of Property (“Complaint”), attached hereto as Ex. A).

2. The Clerk for the Second Judicial District Court issued Summonses to Defendants on November 29, 2017. (See Summonses, attached as Exhibit B).

3. Plaintiff alleges in her Complaint that Defendants were negligent, resulting in personal injuries, medical expenses, pain and suffering, lost wages, and was caused to be homeless for over a year. Exhibit A at Count I, and ¶ 14.

4. Plaintiff also alleges in her Complaint the corporate Defendants are liable under Respondeat Superior. Exhibit A at Count II.

5. The Notice of Removal has been filed in accordance with 28 U.S.C. §§1441(b) and 1446

II. TIMELINESS OF REMOVAL

6. Deuell was served with the Summons and Complaint on December 4, 2017. (*See* Return, attached as Exhibit C).

7. Victoria's Secret was served with the Summons and Complaint on November 30, 2017. (*See* Return, attached as Exhibit D).

8. L Brands, Inc. has not been served with the Summons and Complaint. Service was made upon L Brands Direct Fulfillment, Inc., which is a subsidiary of L Brands, Inc.

9. Accordingly, this Notice of Removal is filed within 30 days of receipt by the UPS Defendants, through service or otherwise, of the Complaint.

10. This Notice of Removal, therefore, is timely. *See* 28 U.S.C. § 1446(b) ("The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based....").

III. BASIS FOR REMOVAL

11. Removal of this case is proper under 28 U.S.C. §1441 and 28 U.S.C. §1332, because complete diversity of citizenship exists between the Plaintiff and Defendants, and the

amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs and interest.

A. Diversity of Citizenship

(1) The Parties in this Action are Citizens of Different States.

12. Plaintiff alleges she is a resident of Bernalillo County, New Mexico. Exhibit A at ¶ 6.

13. Deuell resides in Aurora Colorado. Exhibit A at ¶ 7. Ms. Deuell is therefore a citizen of the state of Colorado.

14. Victoria's Secret is a Delaware limited liability company with a principal place of business in the state of Ohio. Victoria's Secret is a wholly-owned subsidiary of Retail Store Operations, Inc., a Delaware corporation with its principal place of business in the state of Ohio. Accordingly, Victoria's Secret is a citizen of Ohio. For purposes of removal jurisdiction, neither Victoria's Secret nor Retail Store Operations, Inc. are citizens of New Mexico. L Brands is a Delaware corporation with its principal place of business in the state of Ohio. Therefore, L Brands is a citizen of Ohio. For purposes of removal jurisdiction, L Brands is not a citizen of New Mexico.

15. Therefore, for purposes of removal jurisdiction, complete diversity exists between Plaintiff and Defendants.

B. Value of Matter in Controversy

16. As noted above, Plaintiff alleges injuries and seeks property damage, attorney fees, and the following damages against the Defendants: "medical expenses, pain and suffering from physical injury, which may continue into the future as a necessity of

treatment; and the Plaintiff has incurred various out of pocket expenses, was rendered homeless for over a year because she could not work; extraordinary expenses, all of which damages have not yet been medically and financially resolved.” Exhibit A, ¶¶ 14, Prayer for Relief, pgs 5 and 6.

17. On September 21, 2017, Plaintiff made a written demand well in excess of \$75,000.00.

18. In accordance with the procedure set forth in 28 U.S.C. §1446(a), copies of the Summons, Complaint, and all other papers served upon Victoria’s Secret, or filed in the state court action are attached hereto as a composite Exhibit A.

19. Thus, pursuant to 28 U.S.C. § 1332(a), this Court has jurisdiction over this matter in that the properly joined parties hereto are citizens of different states and the amount in controversy, exclusive of interest and costs, is in excess of \$75,000.00

IV. CONSENT TO REMOVAL

20. All of the Defendants consent to the removal of the state action to this Court.

V. NOTICE TO ADVERSE PARTIES AND STATE COURT

21. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, the undersigned will give written notice of the removal of this action on the Plaintiff by serving its counsel with this Notice of Removal and will file a copy of this Notice of Removal and exhibits thereto with the District Court Clerk of the Second Judicial Circuit Court of the State of New Mexico, Bernalillo County.

VI. FILINGS FROM STATE COURT DOCKET

22. Pursuant to 28 U.S.C. § 1446(a), “all process, pleadings, and orders” are attached hereto
(See State Court Docket, Ex. E)

WHEREFORE, Defendants respectfully request that this case be entered upon the docket of the United States District Court for the District of New Mexico, pursuant to 28 U.S.C. §§1441 and 1446.

Respectfully submitted,

BUTT THORNTON & BAEHR PC

/s/ Monica R. Garcia

Monica R. Garcia

Attorneys for Defendants

P.O. Box 3170

Albuquerque, NM 87190-3170

(505) 884-0777

mrgarcia@btblaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 29th, 2017, a copy of the foregoing was served by the USDC’s electronic notification system and by U.S. mail, postage pre-paid, upon Thomas M. Allison, Whitener Law Firm, P.A., 4110 Cutler Avenue NE, Albuquerque, NM 87110, and Clayton Fisher Childs, 2501 San Pedro NE, Ste. 107, Albuquerque, NM 87110.

/s/ Monica Garcia

Monica Garcia

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

MOLLY L. DELGADO

Plaintiff,

V.

No. D-202-CV-2017-01318

MELISSA DEUELL and
VICTORIA'S SECRET STORES, LLC., and L BRANDS, Inc.

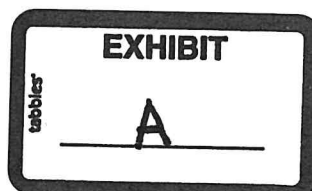
Defendants

COMPLAINT FOR DAMAGES
AS A RESULT OF PERSONAL INJURY
AND LOSS OF PROPERTY

COMES NOW the Plaintiff, Molly L. Delgado, by and through her attorney of record, Clayton Fisher Childs, and for her causes of action against the Defendants, and, each of them, Melissa Deuell, Victoria's Secret Stores, LLC., and L Brands, Inc., hereby states as FOLLOWS:

PRELIMINARY MATTERS

1. That on or about February 25, 2014, the Plaintiff was a passenger in a friend's vehicle; the Watkins' vehicle which was stopped behind a vehicle on San Mateo NE, in the right lane at a stop light; Northbound. All acts/omissions occurred in Albuquerque, Bernalillo County, New Mexico.
2. That the vehicle in which the Plaintiff was being driven in was by Plaintiff's friend, Bruce Watkins.
3. That Plaintiff and her friend's vehicle were hit from behind by Defendant, Melissa Deuell's vehicle, a rental vehicle from Hertz Rental, causing the



Watkins' vehicle to impact vehicle in front of them, which was also Northbound, and also, stopped and waiting for the traffic light to cycle through to green. This vehicle was driven by Priscilla Weisent who is not a party to this Complaint.

4. That upon information and belief, there was damage done to the Defendants' vehicle driven by Melissa Deuell, which also resulted in the damage done to the vehicle in front of the Watkins' vehicle.

5. That the Watkins's vehicle in which Plaintiff, Molly L. Delgado was a passenger at the time of the collision was in compliance with all applicable ordinances and statutes.

6. That Plaintiff, Molly L. Delgado, at the time of the collision, was a resident of Bernalillo County and is still a resident of Bernalillo County, New Mexico.

7. That upon information and belief, the Defendant, Melissa Deuell, was a resident of Aurora, Colorado; at the time of the collision, and may, upon information and belief, still be a resident of Colorado and subject to New Mexico Long Arm Statutes. Melissa Deuell was on the date and time of the wreck, working for and on behalf of Victoria's Secrets Stores, LLC., and driving a rental car issued to Victoria's Secrets Stores, LLC.

8. That Defendant, L Brands, Inc., upon information and belief, is a corporation headquartered in Columbus, Ohio.

9. That upon information and belief, Defendant, Victoria's Secret Stores, LLC, is headquartered in Ohio; and, is a wholly owned subsidiary of L Brands, Inc.

10. That this court has jurisdiction both in personam and in rem regarding all individuals, corporations and LLC's, and causes of action set out herein; under existing laws on the date of the collision; and, under New Mexico Long Arm Statutes.

11. That the Defendants'; and each of them, had and have primary liabilities, duties and obligations to the Plaintiff, Molly L. Delgado.

COUNT I

PERSONAL INJURY-NEGLIGENCE

COMES NOW, the Plaintiff, Molly L. Delgado, by and through her attorney of record, Clayton Fisher Childs, and hereby incorporates by reference as if set forth fully herein the allegations contained within the "PRELIMINARY MATTERS" section of this Complaint, and further states as FOLLOWS:

12. That the Defendant, Melissa Deuell, negligently, knew or should have known that by driving distracted by looking at her GPS, that her driving could and did, negligently cause her car to collide with the Watkins' vehicle, in which Plaintiff was a passenger; and, that such distracted driving could and did cause injury to Plaintiff.

13. The actions/omissions of Defendants, and, each of them, Melissa Deuell, Victoria's Secret Stores, LLC., and L. Brands, Inc., include, but are not limited to:

- a. failure to keep a proper lookout;

- b. failure to keep Defendants' car under control;
 - c. driving a vehicle in violation of existing ordinances and statutes;
 - d. failing to operate Defendants' vehicle in a safe and reasonable manner;
 - e. operating Defendants' vehicle in derogation of the rights of the Plaintiff;
and, thereby breaching a duty to Plaintiff;
 - f. failing to ensure a safe and lawful flow of traffic;
 - g. driving Defendants' vehicle in a reckless, and/or careless, and/or unsafe
manner without taking proper precautions to ensure the safety of
Defendants' vehicle;
 - h. breaching a duty to Plaintiff.
 - i. allowing Defendant, Deuell, to drive in a distracted manner.
14. That as a direct and proximate result of the negligence of Defendants', and, each of them, by way of actions/omissions afore referenced, Plaintiff, incurred medical expenses, pain and suffering from physical injury, which may continue into the future as a necessity of treatment; and the Plaintiff has incurred various out of pocket expenses, was rendered homeless for over a year because she could not work; extraordinary expenses, all of which damages have not yet been medically and financially resolved.
15. That the Plaintiff has been required to retain the services of an attorney, has incurred various costs and expenses, and should be reimbursed for same.
16. That the Plaintiff, Molly L. Delgado, will continue to investigate through discovery the various theories of Negligence and may yet petition the court to amend this Complaint to fit any factual pattern discovered.

WHEREFORE, Plaintiff, Molly L. Delgado, by and through her attorney of record, Clayton Fisher Childs, hereby prays for Judgment against the Defendants, and, each of them, for negligence, in an amount reasonable to compensate Plaintiff, for her losses including unaddressed property damages incurred as a result of Plaintiff having to sell a great amount of her personal property, being rendered essentially homeless for over a year and a half, plus costs of this action, expenses, attorney's fees; and, for such other and further relief as the Court deems necessary and proper.

COUNT II-RESPONDEAT SUPERIOR

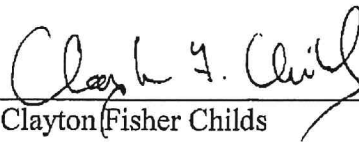
COMES NOW, the Plaintiff, Molly L. Delgado, and hereby incorporates by reference as if set forth fully herein all allegations earlier set out in this Complaint.

17. That Plaintiff, Molly L. Delgado, has been injured, by both bodily injury and interruption of her living on a daily basis, and such injuries are a direct and proximate result of the actions/omissions of Defendants, and, each of them, Melissa Deuell, Victoria's Secret Stores, LLC., and L Brands, Inc. in accordance with the doctrine of Respondeat Superior.

18. The Defendants, Victoria's Secret Stores, LLC, and, L Brands Inc., are responsible for all negligent actions/omissions of Defendant, Melissa Deuell, their employee to include all damages done to and yet to be determined regarding Plaintiff, Molly L. Delgado.

WHEREFORE, Plaintiff, Molly L. Delgado, by and through her attorney of record, Clayton Fisher Childs, hereby prays for Judgment against the Defendants, and, each of them, for damages due to Respondent Superior, in an amount reasonable to compensate Plaintiff for her losses including unaddressed property damages incurred as a result of Plaintiff having to sell a great amount of her personal property, being rendered essentially

rendered essentially homeless for over a year and a half, plus costs of this action, expenses, attorney's fees; and, for such other and further relief as the Court deems necessary and proper.

A handwritten signature in black ink, appearing to read "Clayton Fisher Childs", is written over a horizontal line.

Clayton Fisher Childs
Attorney for Plaintiff
2501 San Pedro NE Ste. 107
Albuquerque, NM 87110
(505) 880-8830

SUMMONS	
District Court: <u>Second Judicial District Court</u> County of Bernalillo, New Mexico Court Address: 400 Lomas N.W. Albuquerque, NM 87103 Court Telephone No.: (505) 841-7425	Case Number: D-202-CV-2017-01318 Judge: Honorable Beatrice J. Brickhouse
Plaintiff: Molly L. Delgado v. Defendants: Melissa Deuell and Victoria's Secret Stores, LLC., and L Brands, Inc.	Defendant: Melissa Deuell

TO THE ABOVE-NAMED DEFENDANT(S): Take notice that:

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Courts address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

11/29/2017

WHITENER LAW FIRM, P.A.



JAMES A. NOEL
CLERK OF THE DISTRICT COURT

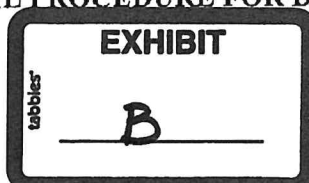
By:

Cathy Chavez
Cathy Chavez, Deputy

/s/ Thomas M. Allison

Thomas M. Allison
Attorneys for Plaintiff
4110 Cutler Avenue NE
Albuquerque, NM 87110
505/242-3333
505/242-3322 (fax)
tm5052002@yahoo.com

**THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.**



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CLERK OF THE DISTRICT COURT

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/s/ Thomas M. Allison

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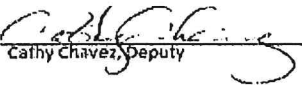
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JAMES A. NOEL
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By: 
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/s/ Thomas M. Allison

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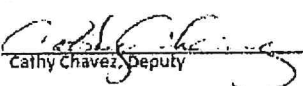
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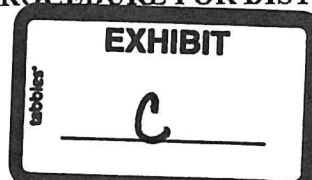


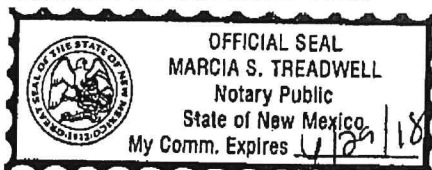
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By: 
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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature </p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Melissa Deuell 6501 S. Tempe St. Aurora, CO 80016</p>		<p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7009 2820 0001 5407 4346</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>		<p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>PS Form 3811, April 2015 PSN 7530-02-000-9053</p>		<p>Domestic Return Receipt</p>	

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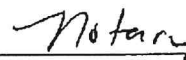
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/s/ Thomas M. Allison

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<p>1. Article Addressed to:</p> <p>Victoria Secret Stores, LLC c/o CT Corporation System 206 S. Coronado Parkway Española, NM 87532</p>		<p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7009 2820 0001 5407 4353</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below: _____</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>		<p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
PS Form 3811, April 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [Search](#) [Refine Search](#) [Back](#)Location : 2nd District [Images](#)**REGISTER OF ACTIONS****CASE No. D-202-CV-2017-01318**

Molly L Delgado v. Melissa Deuell, et al.

§
§
§
§
§
§Case Type: **Tort Auto**
Date Filed: **02/24/2017**
Location:
Judicial Officer: **Brickhouse, Beatrice J.****PARTY INFORMATION**

		Attorneys
Defendant	Deuell, Melissa	
Defendant	L Brands Inc	
Defendant	Victorias Secret Stores LLC	
Plaintiff	Delgado, Molly L	Thomas M. Allison <i>Retained</i> 505-242-3333(W)
		Clayton Fisher Childs <i>Retained</i> 505-880-8830(W)
		Thomas M. Allison <i>Retained</i> 505-242-3333(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS			
02/24/2017	Cause Of Actions	Tort: Personal Injury Auto	
	Action Type	Action	
02/24/2017	Cause Of Actions	Tort: Property Damage Auto	
	Action Type	Action	
02/24/2017	OPN: COMPLAINT		
02/24/2017	ARB: CERT NOT SUBJECT		
07/19/2017	NTC: NOTICE		
	<i>Notice of Continuing Settlement Negotiations</i>		
11/28/2017	ENTRY OF APPEARANCE		
11/28/2017	DISCOVERY		
11/29/2017	Summons		
	Deuell, Melissa	Served	12/04/2017
		Response Due	01/03/2018
		Returned	12/14/2017
	L Brands Inc	Served	11/30/2017
		Response Due	01/01/2018
		Returned	12/05/2017
	Victorias Secret Stores LLC	Served	11/30/2017
		Response Due	01/01/2018
		Returned	12/05/2017
12/05/2017	SUMMONS RETURN		
12/05/2017	SUMMONS RETURN		
12/14/2017	SUMMONS RETURN		

FINANCIAL INFORMATION

	Plaintiff Delgado, Molly L		
	Total Financial Assessment		132.00
	Total Payments and Credits		132.00
	Balance Due as of 12/29/2017		0.00
02/26/2017	Transaction Assessment		132.00
02/28/2017	File & Serve Payment	Receipt # ALBD-2017-5459	Delgado, Molly L (132.00)



SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

MOLLY L. DELGADO

Plaintiff,

V.

No. D-202-CV-2017-01318

MELISSA DEUELL and
VICTORIA'S SECRET STORES, LLC., and L BRANDS, Inc.

Defendants

COMPLAINT FOR DAMAGES
AS A RESULT OF PERSONAL INJURY
AND LOSS OF PROPERTY

COMES NOW the Plaintiff, Molly L. Delgado, by and through her attorney of record, Clayton Fisher Childs, and for her causes of action against the Defendants, and, each of them, Melissa Deuell, Victoria's Secret Stores, LLC., and L Brands, Inc., hereby states as FOLLOWS:

PRELIMINARY MATTERS

1. That on or about February 25, 2014, the Plaintiff was a passenger in a friend's vehicle; the Watkins' vehicle which was stopped behind a vehicle on San Mateo NE, in the right lane at a stop light; Northbound. All acts/omissions occurred in Albuquerque, Bernalillo County, New Mexico.
2. That the vehicle in which the Plaintiff was being driven in was by Plaintiff's friend, Bruce Watkins.
3. That Plaintiff and her friend's vehicle were hit from behind by Defendant, Melissa Deuell's vehicle, a rental vehicle from Hertz Rental, causing the

Watkins' vehicle to impact vehicle in front of them, which was also Northbound, and also, stopped and waiting for the traffic light to cycle through to green. This vehicle was driven by Priscilla Weisent who is not a party to this Complaint.

4. That upon information and belief, there was damage done to the Defendants' vehicle driven by Melissa Deuell, which also resulted in the damage done to the vehicle in front of the Watkins' vehicle.

5. That the Watkins's vehicle in which Plaintiff, Molly L. Delgado was a passenger at the time of the collision was in compliance with all applicable ordinances and statutes.

6. That Plaintiff, Molly L. Delgado, at the time of the collision, was a resident of Bernalillo County and is still a resident of Bernalillo County, New Mexico.

7. That upon information and belief, the Defendant, Melissa Deuell, was a resident of Aurora, Colorado; at the time of the collision, and may, upon information and belief, still be a resident of Colorado and subject to New Mexico Long Arm Statutes. Melissa Deuell was on the date and time of the wreck, working for and on behalf of Victoria's Secrets Stores, LLC., and driving a rental car issued to Victoria's Secrets Stores, LLC.

8. That Defendant, L Brands, Inc., upon information and belief, is a corporation headquartered in Columbus, Ohio.

9. That upon information and belief, Defendant, Victoria's Secret Stores, LLC, is headquartered in Ohio; and, is a wholly owned subsidiary of L Brands, Inc.

10. That this court has jurisdiction both in personam and in rem regarding all individuals, corporations and LLC's, and causes of action set out herein; under existing laws on the date of the collision; and, under New Mexico Long Arm Statutes.

11. That the Defendants'; and each of them, had and have primary liabilities, duties and obligations to the Plaintiff, Molly L. Delgado.

COUNT I

PERSONAL INJURY-NEGLIGENCE

COMES NOW, the Plaintiff, Molly L. Delgado, by and through her attorney of record, Clayton Fisher Childs, and hereby incorporates by reference as if set forth fully herein the allegations contained within the "PRELIMINARY MATTERS" section of this Complaint, and further states as FOLLOWS:

12. That the Defendant, Melissa Deuell, negligently, knew or should have known that by driving distracted by looking at her GPS, that her driving could and did, negligently cause her car to collide with the Watkins' vehicle, in which Plaintiff was a passenger; and, that such distracted driving could and did cause injury to Plaintiff.

13. The actions/omissions of Defendants, and, each of them, Melissa Deuell, Victoria's Secret Stores, LLC., and L. Brands, Inc., include, but are not limited to:

a. failure to keep a proper lookout;

- b. failure to keep Defendants' car under control;
 - c. driving a vehicle in violation of existing ordinances and statutes;
 - d. failing to operate Defendants' vehicle in a safe and reasonable manner;
 - e. operating Defendants' vehicle in derogation of the rights of the Plaintiff;
and, thereby breaching a duty to Plaintiff;
 - f. failing to ensure a safe and lawful flow of traffic;
 - g. driving Defendants' vehicle in a reckless, and/or careless, and/or unsafe
manner without taking proper precautions to ensure the safety of
Defendants' vehicle;
 - h. breaching a duty to Plaintiff.
 - i. allowing Defendant, Deuell, to drive in a distracted manner.
14. That as a direct and proximate result of the negligence of Defendants', and, each of them, by way of actions/omissions afore referenced, Plaintiff, incurred medical expenses, pain and suffering from physical injury, which may continue into the future as a necessity of treatment; and the Plaintiff has incurred various out of pocket expenses, was rendered homeless for over a year because she could not work; extraordinary expenses, all of which damages have not yet been medically and financially resolved.
15. That the Plaintiff has been required to retain the services of an attorney, has incurred various costs and expenses, and should be reimbursed for same.
16. That the Plaintiff, Molly L. Delgado, will continue to investigate through discovery the various theories of Negligence and may yet petition the court to amend this Complaint to fit any factual pattern discovered.

WHEREFORE, Plaintiff, Molly L. Delgado, by and through her attorney of record, Clayton Fisher Childs, hereby prays for Judgment against the Defendants, and, each of them, for negligence, in an amount reasonable to compensate Plaintiff, for her losses including unaddressed property damages incurred as a result of Plaintiff having to sell a great amount of her personal property, being rendered essentially homeless for over a year and a half, plus costs of this action, expenses, attorney's fees; and, for such other and further relief as the Court deems necessary and proper.

COUNT II-RESPONDEAT SUPERIOR

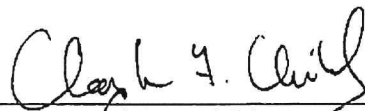
COMES NOW, the Plaintiff, Molly L. Delgado, and hereby incorporates by reference as if set forth fully herein all allegations earlier set out in this Complaint.

17. That Plaintiff, Molly L. Delgado, has been injured, by both bodily injury and interruption of her living on a daily basis, and such injuries are a direct and proximate result of the actions/omissions of Defendants, and, each of them, Melissa Deuell, Victoria's Secret Stores, LLC., and L Brands, Inc. in accordance with the doctrine of Respondeat Superior.

18. The Defendants, Victoria's Secret Stores, LLC, and, L Brands Inc., are responsible for all negligent actions/omissions of Defendant, Melissa Deuell, their employee to include all damages done to and yet to be determined regarding Plaintiff, Molly L. Delgado.

WHEREFORE, Plaintiff, Molly L. Delgado, by and through her attorney of record, Clayton Fisher Childs, hereby prays for Judgment against the Defendants, and, each of them, for damages due to Respondent Superior, in an amount reasonable to compensate Plaintiff for her losses including unaddressed property damages incurred as a result of Plaintiff having to sell a great amount of her personal property, being rendered essentially

rendered essentially homeless for over a year and a half, plus costs of this action, expenses, attorney's fees; and, for such other and further relief as the Court deems necessary and proper.

A handwritten signature in black ink, appearing to read "Clayton F. Childs", written over a horizontal line.

Clayton Fisher Childs
Attorney for Plaintiff
2501 San Pedro NE Ste. 107
Albuquerque, NM 87110
(505) 880-8830

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

MOLLY L. DELGADO,

Plaintiff,

vs.

No. D-202-CV-2017-01318

MELISSA DEUELL and
VICTORIA'S SECRET STORES, LLC., and L BRANDS, Inc.

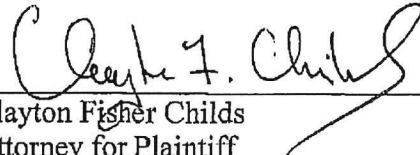
Defendants.

COURT-ANNEXED ARBITRATION CERTIFICATION

Clayton Fisher Childs, pursuant to Second Judicial District Local rules, Rule LR2-603,
certifies as follows:

☐ This party seeks only a money judgment and the amount sought does not exceed
Twenty-Five Thousand Dollars (\$25,000.00) exclusive of punitive damages,
interest, costs and attorney fees.

☒ This party seeks relief other than a money judgment and/or seeks relief in excess
of Twenty-Five Thousand Dollars (\$25,000.00) exclusive of punitive damages,
interest, costs and attorney fees.


Clayton Fisher Childs
Attorney for Plaintiff
2501 San Pedro Drive, NE Ste 107
Albuquerque, NM 87110
(505) 880-8830

SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

MOLLY L. DELGADO

Plaintiff,

V,

No. D-202-CV-2017-01318

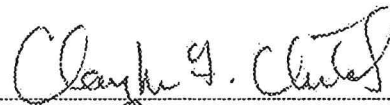
MELISSA DEUELL and
VICTORIA'S SECRET STORES, LLC., and L BRANDS, Inc.

Defendants

**NOTICE OF CONTINUING
SETTLEMENT NEGOTIATIONS**

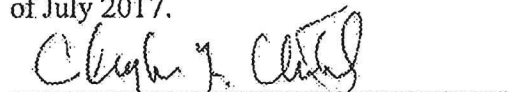
COMES NOW, Clayton Child Fishers, Attorney for Plaintiff, and hereby notifies the Court, and world at large, that Plaintiff and her Attorney are making continuing progress at attempting to reasonably settle the instant lawsuit. Plaintiff will keep this Honorable Court updated as to the results of these agreed upon attempts to resolve the instant case.

Respectfully submitted,



Clayton Fisher Childs
Attorney for Plaintiff
2501 San Pedro NE Ste. 107
Albuquerque, NM 87110
(505) 880-8830

I hereby certify a true copy
of this Notice was sent by US
mail to Amanda Bauer of
Gallagher Bassett this 19th day
of July 2017.


Clayton Fisher Childs

FILED IN MY OFFICE
DISTRICT COURT CLERK
11/28/2017 10:01:07 AM
James A. Noel
Dora Bozovic

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

MOLLY L. DELGADO

Plaintiff,

v.

D-202-CV-2017-01318

MELISSA DEUELL and
VICTORIA'S SECRET STROES, LLC., and L BRANDS, Inc.


Defendant.

ENTRY OF APPEARANCE

COMES NOW Whitener Law Firm, P.A. (Thomas M. Allison) and hereby enters its appearance as co-counsel on behalf of Plaintiff, Molly L. Delgado, in the above-entitled and numbered cause.

Respectfully submitted:

WHITENER LAW FIRM, P.A.



Thomas M. Allison
Attorneys for Plaintiff
4110 Cutler Avenue NE
Albuquerque, NM 87110
505/242-3333
505/242-3322 (fax)
tm5052002@yahoo.com

I hereby certify that a true and correct copy
of the foregoing pleading was sent to all counsel
of record on this 28th day of November 2017.



Thomas M. Allison

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

MOLLY L. DELGADO

Plaintiff,

v.

D-202-CV-2017-01318

MELISSA DEUELL and
VICTORIA'S SECRET STROES, LLC., and L BRANDS, Inc.

Defendant.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Plaintiff's First Set of Interrogatories and Request for Production of Documents to Defendant Melissa Deuell was attached to the Complaint for personal service upon the Defendant along with a copy of this certificate of service. Defendant has forty-five (45) days from the date that they were personally served to answer and respond to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant.

Respectfully submitted:

WHITENER LAW FIRM, P.A.

/s/ Thomas M. Allison

Thomas M. Allison
Attorneys for Plaintiff
4110 Cutler Avenue NE
Albuquerque, NM 87110
505/242-3333
505/242-3322 (fax)
tm5052002@yahoo.com

SUMMONS	
District Court: <u>Second Judicial District Court</u> County of Bernalillo, New Mexico Court Address: 400 Lomas N.W. Albuquerque, NM 87103 Court Telephone No.: (505) 841-7425	Case Number: D-202-CV-2017-01318 Judge: Honorable Beatrice J. Brickhouse
Plaintiff: Molly L. Delgado v. Defendants: Melissa Deuell and Victoria's Secret Stores, LLC., and L Brands, Inc.	Defendant: Victoria's Secret Stores, LLC.

TO THE ABOVE-NAMED DEFENDANT(S): Take notice that:

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Courts address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

11/29/2017

WHITENER LAW FIRM, P.A.



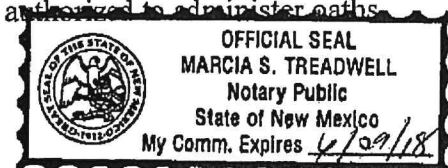
JAMES A. NOEL
CLERK OF THE DISTRICT COURT


By: 
Cathy Chavez, Deputy

/s/ Thomas M. Allison

Thomas M. Allison
Attorneys for Plaintiff
4110 Cutler Avenue NE
Albuquerque, NM 87110
505/242-3333
505/242-3322 (fax)
tm5052002@yahoo.com

**THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.**



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece or on the front if space permits.</p>		<p>A. Signature </p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Victoria Secret Stores LLC c/o CT Corporation System 206 S. Coronado Parkway Española, NM 87532</p>		<p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7009 2820 0001 5407 4353</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>	
<p>9590 9403 0684 5196 5733 31</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
PS Form 3811, April 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

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FAQs > (<http://faq.usps.com/?articleId=220900>)

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Tracking Number: 70092820000154074353

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Expected Delivery on

THURSDAY

30 NOVEMBER 2017 ⓘ by **8:00pm** ⓘ

✓ **Delivered**

November 30, 2017 at 11:11 am
DELIVERED, LEFT WITH INDIVIDUAL
ESPANOLA, NM 87532

Get Updates ✓

Text & Email Updates



Tracking History



Product Information



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SUMMONS	
District Court: <u>Second Judicial District Court</u> County of Bernalillo, New Mexico Court Address: 400 Lomas N.W. Albuquerque, NM 87103 Court Telephone No.: (505) 841-7425	Case Number: D-202-CV-2017-01318 Judge: Honorable Beatrice J. Brickhouse
Plaintiff: Molly L. Delgado v. Defendants: Melissa Deuell and Victoria's Secret Stores, LLC., and L Brands, Inc.	Defendant: L Brands, Inc.

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6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

11/29/2017

WHITENER LAW FIRM, P.A.



JAMES A. NOEL
CLERK OF THE DISTRICT COURT

By: 
Cathy Chavez, Deputy

/s/ Thomas M. Allison

Thomas M. Allison
Attorneys for Plaintiff
4110 Cutler Avenue NE
Albuquerque, NM 87110
505/242-3333
505/242-3322 (fax)
tm5052002@yahoo.com

**THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.**

RETURN

STATE OF NEW MEXICO)
)ss
 COUNTY OF Bernalillo)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Rio Arriba county on the 30th day of November, 2017, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)

☒ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service). Certified Mail

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address).

☒ to J. Romero, an agent authorized to receive service of process for defendant L Brands, Inc.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

☐ to _____ (name of person), _____, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

Signature of person making service

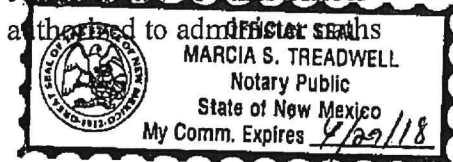
Title (if any)


Subscribed and sworn to before me this 5th day of December, 2017

Marcia S. Treadwell
 Judge, notary or other officer

My Commission Expires: 4/29/18

Official title: Notary



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature </p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>L Brands, Inc. c/o CT Corporation System 206 S. Coronado Parkway Espanola, NM 87532</p>		<p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p>	
<p>2. Article Number (transfer from service label)</p> <p>7009 1680 0001 3900 5468</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>		<p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>9590 9403 0684 5196 5733 24</p>		<p>Domestic Return Receipt</p>	

PS Form 3811, April 2015 PSN 7530-02-000-9053

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Remove X

Expected Delivery on

THURSDAY

30 NOVEMBER 2017 ⓘ by **8:00pm** ⓘ

✓ **Delivered**

November 30, 2017 at 11:11 am
DELIVERED, LEFT WITH INDIVIDUAL
ESPANOLA, NM 87532

Get Updates ✓

Text & Email Updates



Tracking History



Product Information



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SUMMONS	
District Court: <u>Second Judicial District Court</u> County of Bernalillo, New Mexico Court Address: 400 Lomas N.W. Albuquerque, NM 87103 Court Telephone No.: (505) 841-7425	Case Number: D-202-CV-2017-01318 Judge: Honorable Beatrice J. Brickhouse
Plaintiff: Molly L. Delgado v. Defendants: Melissa Deuell and Victoria's Secret Stores, LLC., and L Brands, Inc.	Defendant: Melissa Deuell

TO THE ABOVE-NAMED DEFENDANT(S): Take notice that:

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6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

11/29/2017



JAMES A. NOEL
CLERK OF THE DISTRICT COURT

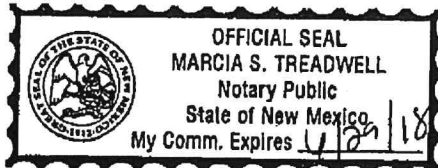
By: 
Cathy Chavez, Deputy


WHITENER LAW FIRM, P.A.

/s/ Thomas M. Allison

Thomas M. Allison
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